

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. NO.: 2777-10  
BILL NO.: HCS for SB896  
SUBJECT: Corporations: Business and Commerce  
TYPE: Original  
DATE: April 14, 2000

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
General Revenue	(\$1,005,180)	(\$1,010,895)	(\$1,018,135)
Insurance Dedicated	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>(\$1,005,180)</b>	<b>(\$1,010,895)</b>	<b>(\$1,018,135)</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 10 pages.

---

**FISCAL ANALYSIS**

**ASSUMPTION**

Officials of the **Department of Labor and Industrial Relations** assume no fiscal impact.

Officials fo the **Office of Attorney General** assume no fiscal impact.

Officials of the **Department of Economic Department - Division of Finance** assume no fiscal impact.

Officials of the **Office of Secretary of State** has identified several sections in this proposal that would create additional duties and would have fiscal impact.

Officials estimate that the securities division would require 3 FTE and would need 600 Square feet of additional office space at an estimated annual cost of \$5,100. SOS Officials stated the following:

Chapter 347: this legislation requires publishing notice of winding up in the Missouri Register if a dissolving company wishes to bar unknown claims against the company. Last year approximately 200 voluntary dissolutions were filed with the Missouri Secretary of State. This bill provides that the notice be published in the Missouri Register, where the estimated cost of a page is \$22.50. The actual cost could be more or less than the number given. The maximum estimated cost based on 1999 records would be \$4,500.

Chapter 351: contains certain technical changes. Also, proposed section 351.055(9) would permit a corporation to include a provision in its articles of incorporation that impacts the potential personal liability of its directors. Also, section 351.182 of this legislation permits publishing notice of winding up in the Missouri Register if a dissolving corporation wishes to bar unknown claims against the corporation. Last year approximately 2,925 voluntary dissolutions were filed with the Missouri Secretary of State. Some, but not all of these dissolving corporations will wish to publish notice in order to bar unknown claims. This office has no record of the number of companies that actually publish such a notice. This bill provides that the notice be published in the Missouri Register, where the estimated cost of a page is \$22.50. The maximum estimated cost based on 1999 records if every dissolving company chose to publish would be \$65,812.50. Also, Section 351.690(2) provides that the provisions of chapter 351 are to be applicable to Banks, trust companies and safe deposit companies when chapter 351 "supplements" chapter 362. It is unclear what this provision means. If it is interpreted to mean that entities regulated under chapter 362 must also comply with all provisions of chapter 351, then such entities would be required to submit numerous filings to SOS (such as amendments, etc.). If such broad interpretation were employed, it would result in a substantial increase in filings made with the SOS. It is likely additional FTE (and associated E & E) would be required to process such filing in a timely manner.

ASSUMPTION (continued)

Chapter 359:

1) would permit a limited partnership to have a perpetual existence. The current SOS mainframe system would have to be modified to accommodate this change. It is possible that additional temporary FTE would be required to implement this requirement.

2) would permit a limited partnership to dispose of unknown claims by filing a notice of winding up with SOS. The current SOS mainframe would have to be modified to accommodate this change. It is possible that additional temporary FTE would be required to implement this requirement. This legislation also requires publishing notice of winding up in the Missouri Register if a dissolving limited partnership wishes to bar unknown claims against the limited partnership. Last year approximately 100 voluntary dissolutions were filed with the Missouri Secretary of State. Some, but not all of these dissolving limited partnerships will wish to publish notice in order to bar unknown claims. This office has no record of the number of companies that actually published such notice in a local newspaper under the current law. This bill provides that the notice be published in the Missouri Register, where the estimated cost of a page is \$22.50. The actual cost would be more or less than the number given. The maximum estimated cost based on 1999 records if every dissolving limited partnership chose to publish would be \$2,250.

SOS officials stated that this proposal would require the Securities Division to oversee implementation of the law.

The Securities Division determined that it would be necessary to add one full time clerk typist II, one full time investigator and one full time attorney.

Clerk Typist II: maintains a log of victims and a log of persons promoting business opportunities against whom complaints have been made; assists the investigator and attorney in the preparation of referrals to prosecuting attorney; assist the attorney in preparation of pleadings; conducts background checks of persons promoting business opportunities against whom complaints have been made.

Investigator II: interviews victims and witnesses; gathers evidence, corporate documents, and background information; prepares referrals to prosecuting attorneys; assists the attorney in seeking injunctions against persons violating the business opportunities legislation; testifies in court.

Attorney: supervises clerk typists and investigator; reviews and participates in referrals to the prosecuting attorneys; seeks injunctions against persons violating the business opportunities legislation; appears in court.

ASSUMPTION (continued)

The Administrative Rules Division estimates a Range 18 Associated Editor would be necessary to work with filers and receive, review and edit these additional notices in preparation for publication.

Officials of the **Department of Insurance** stated this proposal amends the laws relating to dissolving and winding up the affairs of domestic limited liability companies, general business corporations and limited partnerships.

This proposal also creates a license for organizational credit agencies. Legislation allows employees of a licensed credit agency organization to act as agents for the following types of insurance: credit life, credit accident and health, credit property, credit involuntary unemployment and any other form of credit or credit related insurance. Credit agencies would be licensed annually and submit a list of employees to the department who could act on the agency's behalf in soliciting, negotiating and procuring credit insurance. An insurer authorized to do business in the state must appoint the credit agency and its employees. Language has been added in sections 376.350 and 379.105 that prohibits the department from disclosing information regarding compensation of any employee or officer of an insurance company.

Department of Insurance officials stated that an Organizational Credit Agency license fee is set at \$100.00 and annual renewal at \$50.00. Licensed credit agency must pay a fee of \$18.00 annually to the department for each employee submitted on the list of those employees that are authorized to act on its behalf. The insurer would be required to pay a 10.00 appointment or cancellation fee for each applicant designated under 375.065 2.(2). The department currently licenses 9,476 agents who do credit insurance. We are unable to determine how many of the 9,200 agencies we license are credit agencies. The department assumes that there would be minimal change within the number of agencies currently licensed. It further assumes that a minimal number of agents licensed under the current method would choose to be licensed as a organizational credit agency or would be an employee under such an organization therefore there would be minimal change within the number of agents currently licensed. The department assumes the legislation would most likely affect businesses and individuals that previously had not been licensed as either an agent or agency. These businesses and individuals might be those in retail sales who sell goods and services on credit and could now sell credit insurance in conjunction with their other business. The department anticipates an increase in the number of new businesses and individuals licensed as credit organizations. The department cannot estimate how many businesses or individuals would become licensed organizational credit agencies or how many employees acting on the agency's behalf would be submitted to the department. The department assumes there will be sufficient volume to require at least 1.00 additional licensing technician. The department will also require contract computer programming to modify the existing licensing system to accommodate the new license and track employees authorized to act on their behalf. This information is included in the annual statements filed with the department. The fiscal note reflects estimated cost for the department and unknown increased revenue from

ASSUMPTION (continued)

licensing and appointment fees.

Insurance Licensing Technicians II: Review and process original applications and annual renewal applications for organizational credit agencies, maintain information on employees authorized to conduct business on the agencies behalf, process appointments by insurers.

Department of Insurance officials stated that they expect income from fees to be in an amount sufficient to cover the costs to the Insurance Dedicated Fund.

**Oversight** will show costs to the Insurance Dedicated Fund as zero.

Officials of the **Office of Administration** stated there would be fiscal impact related to Section 148.064.6 of this proposal.

**Division of Budget and Planning** officials stated that according to the Department of Revenue there are 352 banks that would qualify for this credit, and they have outstanding shares and surplus of \$4,541,413,111. The revenue reduction to GR for a tax credit of 1/60th of 1% is \$756,902.

**Oversight** for the purposes of this fiscal note assumes no fiscal impact related to the changes of filing certain documents with the Recorder of Deeds. Throughout this proposal certain documents have been required to be filed with the Recorder of Deeds of the county or city in which the corporation is either located, or in which the articles of Agreement have been filed. This proposal changes this requirement and requires all filings to be done in the public records section of the Division of Finance. Oversight assumed there would be a loss of income to those funds that receive monies from Recorder of Deeds filing fees. Oversight contacted the **Boone County Recorder of Deeds** for their response and found that these filings were unheard of. The Boone County Recorder then checked with the Recorder of Deeds of St. Louis City and Jackson County and determined that they were also unaware of any filings of records found in this proposal. Therefore, if these types of record filings are not currently being filed with the proper recording authority Oversight assumes there would be no loss of income to those funds which receive a portion of recording fees.

<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
<b>GENERAL REVENUE FUND</b>			
<u>Costs to Secretary of State</u>			
Personal Services 4 FTE	(\$106,470)	(\$132,875)	(\$138,190)
Fringe Benefits	(\$32,740)	(\$40,859)	(\$42,493)
Equipment	(\$29,715)	(\$1,200)	(\$1,200)
Expense	<u>(\$79,353)</u>	<u>(\$79,059)</u>	<u>(\$79,350)</u>
Estimated net expense to Secretary of State	(\$248,278)	(\$253,993)	(\$261,233)
<u>Loss to General Revenue Fund</u> from tax credit of 1/60th of 1% (Section 148.064.6)			
	(\$756,902)	(\$756,902)	(\$756,902)
<b>ESTIMATED NET EFFECT TO GENERAL REVENUE FUND</b>	<b>(\$1,005,180)</b>	<b>(\$1,010,895)</b>	<b>(\$1,018,135)</b>
<b>INSURANCE DEDICATED FUND</b>			
<u>Income to Insurance Dedicated Fund</u> from fees			
	\$79,304	\$34,362	\$35,232
<u>Costs to Insurance Dedicated Fund</u>			
Personal Service 1FTE	(\$20,041)	(\$24,660)	(\$25,277)
Fringe Benefits	(\$6,163)	(\$7,583)	\$7,773
Equipment	<u>(\$7,426)</u>	<u>\$0</u>	<u>\$0</u>
Total costs to INS	<u>(\$79,304)</u>	<u>(\$34,362)</u>	<u>(\$35,232)</u>
<b>ESTIMATED NET EFFECT TO INSURANCE DEDICATED FUND</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>*Insurance officials expect income from new fees to offset the administrative costs.</b>			
<u>FISCAL IMPACT - Local Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
	\$0	\$0	\$0

FISCAL IMPACT - Small Business

Small business could expect to be fiscally impacted due to the numerous changes in this proposal, including tax credits for banks that filed returns after December 31, 2000.

DESCRIPTION

This substitute modifies the law relating to business organizations. In its major provisions, the substitute:

- (1) Authorizes a \$2.50 charge for processing a notice of lien (Section 136.055, RSMo);
- (2) Requires county collectors to first apply payments for real property taxes to back delinquent taxes (Section 140.110);
- (3) Modifies the definition of a resident estate or trust to require at least one income beneficiary to be a resident of Missouri (Section 143.331);
- (4) Allows banks a tax credit for returns filed after December 31, 2000 (Section 148.064);
- (5) Allows liens on motor vehicles and boats to be effective with minor errors (Sections 301.600, 306.400);
- (6) Modifies procedures for lienholders to secure and perfect future advances on motor vehicles and boats (Sections 306.410, 306.420);
- (7) Modifies procedures relating to the dissolution of limited liability companies (Sections 347.137, 306.141);
- (8) Extends from August 31, 2000, to August 31, 2001, the expiration date of certain provisions relating to health services corporations organized as not-for-profit corporations (Sections 351.025, 354.065);
- (9) Allows a corporation's articles of incorporation to limit the personal liability of a director and the indemnification of a director, officer, or employee when that person has been successful in an action related to the person's position with the corporation (Sections 351.355, 351.055);
- (10) Prohibits a person from being admitted to vote on shares belonging to the corporation which issued the shares (Section 351.245);
- (11) Allows a corporation to pay cash equal to the value of a fractional share (Section 351.300);
- (12) Allows publication of a corporation's notice of dissolution in the Missouri Register (Section 351.482);
- (13) Allows bank and trust companies to operate in the same manner as other corporations when the banking statutes do not apply (Section 351.690);

DESCRIPTION (continued)

- (14) Modifies procedures for the winding up of a limited partnership (Sections 359.451, 359.481);
- (15) Modifies several sections within Chapters 361 and 362 to facilitate a centralized filing system by allowing banks to file public documents with the Division of Finance;
- (16) Requires presentation of claims under Section 361.540 to the circuit court of Cole County for determination of the priority of payment (Section 361.540);
- (17) Requires notices of stockholder meetings to be delivered personally or mailed by first class postage prepaid (Section 362.044);
- (18) Allows state-chartered bank and trust companies to establish subsidiaries subject to the limitations that would be applicable to national banks (Section 362.105);
- (19) Adds the Federal Home Loan Bank, the Federal Farm Credit Bank, and the Student Loan Marketing Association to the list of exclusions related to bank investment limits. This section is subject to an emergency clause (Section 362.170);
- (20) Changes the minimum number of bank directors from five to three (Section 362.245);
- (21) Establishes procedures for banks to conduct reverse stock splits and to determine the value in a reverse stock split (Sections 362.325, 362.730, 362.740);
- (22) Allows foreign corporations to establish trust representative offices (Section 362.600);
- (23) Allows bank holding companies to become financial holding companies upon compliance with federal law (Section 362.955);
- (24) Expands the definition of "motor vehicle" in the Motor Vehicle Time Sales Act to include all-terrain vehicles, motorized bicycles, mopeds, and motortricycles (Section 365.020);
- (25) Allows savings and loan associations to invest in the Federal Home Loan Bank, the Federal Farm Credit Bank, and the Student Loan Marketing Association (Section 369.219);
- (26) Creates a licensing process for credit insurance companies (Sections 375.022, 375.065);
- (27) Prohibits the Department of Insurance from disclosing the compensation of an employee or officer of an insurance company (Sections 376.350, 379.105);

DESCRIPTION (continued)

(28) Excludes fees charged for necessary services performed in connection with residential real estate loans and second mortgages from the determination of annual percentage rates (Sections 408.052, 408.234);

(29) Regulates business opportunities and defines "business opportunity" as the sale or lease of any product, equipment, supplies, or services for which more than \$500 has been paid for the start-up of a business and in which written guarantees or other conditions are represented by the seller. A seller is prohibited from engaging in certain activities, including making certain misrepresentations and false claims. A purchaser who suffers damages as a result of violations of the provisions may bring a civil action for damages and attorney's fees (Sections 409.1000, 409.1018);

(30) Requires persons requesting records from a savings and loan association for civil cases to reimburse the association \$15 plus \$0.35 per page and to pay reasonable expenses if an association officer must appear in court or at a deposition (Section 427.220);

(31) Allows mortgage insurance to cover 100% of the market value of the property. Under current law, mortgage insurance may cover up to 97% of the value (Section 443.415);

(32) Allows foreign corporations to establish trust representative offices in Missouri (Section 456.665);

(33) Updates several garnishment statutes (Sections 525.080, 525.250);

(34) Requires limited liability companies that own or lease real property in Kansas City to file with the city clerk an affidavit listing the name and address of a person who has management responsibility for that real property (Section 1); and

(35) Requires the Speaker of the House and the President Pro Tem of the Senate to appoint a state banking association to report recommendations for the removal or replacement of a corporate trustee when the original trustee has been replaced by a subsequent corporate trustee because of a merger, acquisition, or cessation of business by the original corporate trustee. This section is subject to an emergency clause (Section 21.650).

This legislation is not federally mandated, would not duplicate any other program and would require additional capital improvements or rental space.

L.R. NO. 2777-10  
BILL NO. HCS for SB896  
PAGE 10 OF 10  
April 14, 2000

SOURCES OF INFORMATION

Office of Secretary of State  
Office of Attorney General  
Office of Administration  
Department of Revenue  
Department of Economic Development - Division of Finance  
Department of Insurance  
Department of Labor and Industrial Relations  
Boone County Recorder of Deeds  
Jackson County Recorder  
City of St. Louis Recorder of Deeds



Jeanne Jarrett, CPA  
Director  
April 14, 2000